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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,083	03/05/2001	Rodger H. Rast	TRico _01	3270
26994	7590	05/16/2005	EXAMINER	
RODGER H. RAST 11230 GOLD EXPRESS DRIVE SUIT 310 MS 337 GOLD RIVER, CA 95670			BAROT, BHARAT	
			ART UNIT	PAPER NUMBER
			2155	

DATE MAILED: 05/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/800,083

Applicant(s)

RAST, RODGER H.

Examiner

Bharat N. Barot

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**RESPONSE TO AMENDMENT**

1. Claims 1-20 remain for further examination.

**The new grounds of rejection**

2. Applicants' amendments and arguments with respect to claims 1-16 and new claims 17-20 filed on January 13, 2005 have been fully considered but they are deemed to be moot in view of the new grounds of rejection.

**Claim Rejections - 35 USC § 112**

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.
4. Claims 4-5 and 12-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4-5 recite the limitation "the internet service provider (ISP)" in line 1 and claims 12-13 recite the limitation "the internet service provider" in line 2. There are insufficient antecedent basis for these limitations in the claims 1, 4-5, and 11-13.

**Claim Rejections - 35 USC § 102**

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 6-11, and 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Reber et al (U.S. Patent No. 6,032,195). Reber patent meets all the limitations for the claims 1-3, 6-11, and 16-20 recited in the claimed invention.

7. As to claim 1, Reber et al disclose a system for sending temporally displaced electronic messages over a network (see abstract and figure 1), comprising: a sending system (data reader/navigation device) capable of accessing a network and configured to encode a temporal specifier (optical code) into an electronic message to be send over the network to a recipient at a destination address on the network (figure 1; and column 2 lines 5-64); and a retention system (network access apparatus) connected on the network, configured to decode the temporal specifier of the electronic message, store the electronic message, and send the electronic message to the destination in accord with the specified temporal specifier (figure 1; column 4 lines 17-40; and column 5 line 57 to column 6 line 19).

8. As to claims 2-3, Reber et al disclose that the sending system comprises a first computer capable of executing programmed instructions (figure 1; and column 3 line 38 to column 4 line 16); and the retention system comprises a second computer connected to a network and capable of executing programmed instructions (figure 1; and column 4 lines 32-50).

9. As to claim 6, Reber et al disclose that the sending system encodes the network address of the retention system into the electronic message (column 2 lines 58-64), such that the electronic message containing the encoded temporal specifier is first sent to the retention system prior to the retention system sending the electronic message to the recipient at the destination at a time according to the temporal specifier (column 4 lines 17-67 and column 5 line 56 to column 6 line 44).

10. As to claims 7-8, Reber et al disclose that the retention system is capable of adding content to the electronic message; and the content added by the retention system is selected from sources of content consisting of text, multimedia, graphics, sounds, files, and file pointers (column 4 line 60 to column 5 line 48).

11. As to claim 9, Reber et al disclose that the sending system is configured to encode commands for escalating the communication of the body of the electronic message to the recipient, and the retention system is responsive to these escalation commands to communicate the body of the electronic message to the destination address additional times (figures 1-2; column 2 lines 20-64; and column 5 line 56 to column 7 line 55).

12. As to claim 10, Reber et al disclose that the body of the electronic message is communicated additional times through a communication media in a format selected from the group of media formats consisting of electronic messages, telephone messages, FAX messages, and Pager messages (column 2 lines 5-19; and column 3 lines 14-22).

13. As to claim 11, it is also rejected for the same reasons set forth to rejecting claim 1, 6, and 9 above, since claim 11 is merely a method of operations for the apparatus (system) defined in the claims 1, 6, and 9.

14. As to claim 16, Reber et al disclose that the retention system provides editing and deletion capability on the retained electronic messages to the sender of the electronic messages (column 4 line 17 to column 6 line 44).

15. As to claims 17-20, they are also rejected for the same reasons set forth to rejecting claim 1, 6, and 9 above. Additionally, Reber et al disclose that the temporal specifier comprises a date, time, or date and time which is encoded into the electronic message by the sending system (figures 1-2; and column 7 line 60 to column 8 line 56).

**Claim Rejections - 35 USC § 103**

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

17. Claims 4-5 and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reber et al (U.S. Patent No. 6,032,195) in view of Mayle et al (U.S. Patent No. 6,542,936).

18. As to claims 4-5, Reber et al do not disclose that the internet service provider (ISP) for the sending system and the internet service provider (ISP) for the recipient at the destination address

Mayle et al disclose that the internet service provider (ISP) for the sending system comprises the retention system such that electronic messages sent from the sending system must pass through the retention system associated with the ISP; and the internet service provider (ISP) for the recipient at the destination address comprises the retention system such that electronic messages sent from the sending system must first pass through the retention system associated with the ISP of the destination address prior to arrival at the destination (figures 1; column 1 line 60 to column 2 line 13; and column 4 lines 15-60).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Mayle et al stated above in the system of Reber et al for sending temporally displaced electronic messages over a network because it would have provided an efficient and high volume e-mail transmission system which automatically handle bounced e-mail messages.

19. As to claims 12-13, Reber et al disclose that the retention system comprises a mail server provided by the internet service provider (ISP) of the sender and the internet service provider (ISP) of the recipient at the destination address (figures 1; column 1 line 60 to column 2 line 13; and column 4 lines 15-60).



20. Claims 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reber et al (U.S. Patent No. 6,032,195) in view of Funk et al (U.S. Patent No. 5,937,162).

21. As to claims 14-15, Reber et al do not explicitly disclose that the user specified delivery time coordinate is configured to be equated to a particular day and time.

Funk et al explicitly discloses that the user specified delivery time coordinate is configured to be equated to a particular day and time (column 6 lines 38-52; column 7 lines 43-51; column 11 lines 29-35; and column 11 line 64 to column 12 line 11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Funk et al stated above in the system of Reber et al for sending temporally displaced electronic messages over a network because it would have provided an efficient and high volume e-mail transmission system which automatically handle bounced e-mail messages.

### **Response to Arguments**

22. Applicant's arguments have been fully considered. The examiner has attempted to answer the remarks in the body of the Office action.

**Contact Information**

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bharat Barot whose telephone number is (571) 272-3979. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alam, Hosain, can be reached at (571) 272-3978.

Any inquiry of general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 305-3900.

Patent Examiner Bharat Barot

Art Unit 2155

May 02, 2005

  
**BHARAT BAROT**  
**PRIMARY EXAMINER**